

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Statement of Issues Against:

**BRANDON JARROD MURPHY**

Applicant.

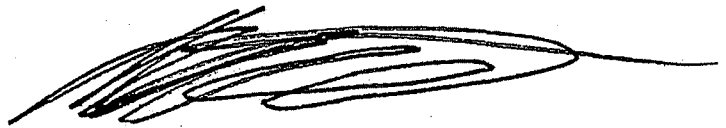
Case No. 2012-453

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on August 20, 2012..

IT IS SO ORDERED July 20, 2012.



Erin Niemela  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California

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8 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues  
Against:

12 **BRANDON JARROD MURPHY**  
13 **828 Manzanita Avenue**  
14 **Eureka, CA 95503**

15  
16 Applicant.

Case No. 2012-453

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

17  
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
19 entitled proceedings that the following matters are true:

20 PARTIES

21 1. Louise R. Bailey, M.Ed., RN ("Complainant") is the Interim Executive Officer of the  
22 Board of Registered Nursing. She brought this action solely in her official capacity and is  
23 represented in this matter by Kamala D. Harris, Attorney General of the State of California, by  
24 Judith J. Loach, Deputy Attorney General.

25 2. Applicant Brandon Jarrod Murphy ("Applicant") is represented in this proceeding by  
26 attorney Shelley C. Addison, whose address is: Dun & Martinek, LLP, 2313 I Street,  
27 Eureka, CA 95501.

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3. On or about June 3, 2011, Applicant filed an application dated June 1, 2011, with the Board of Registered Nursing to obtain a registered nurse license.

## JURISDICTION

4. Statement of Issues No. 2012-453 was filed before the Board of Registered Nursing ("Board"), Department of Consumer Affairs, and is currently pending against Applicant. The Statement of Issues and all other statutorily required documents were properly served on Applicant on February 23, 2012, a copy of which is attached as Exhibit A and incorporated herein by reference.

## ADVISEMENT AND WAIVERS

5. Applicant has carefully read, fully discussed with counsel, and understands the charges and allegations in Statement of Issues No. 2012-453. Applicant has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Applicant is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Statement of Issues; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Applicant voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

## CULPABILITY

8. Applicant admits the truth of each and every charge and allegation in Statement of Issues No. 2012-453.

9. Applicant agrees that his application for a registered nurse license is subject to denial and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

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1 immediately be revoked, the order of revocation stayed and Applicant placed on probation for a  
2 period of three (3) years on the following conditions:

3 **Severability Clause.** Each condition of probation contained herein is a separate and  
4 distinct condition. If any condition of this Order, or any application thereof, is declared  
5 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other  
6 applications thereof, shall not be affected. Each condition of this Order shall separately be valid  
7 and enforceable to the fullest extent permitted by law.

8 1. **Obey All Laws.** Applicant shall obey all federal, state and local laws. A full and  
9 detailed account of any and all violations of law shall be reported by Applicant to the Board in  
10 writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with  
11 this condition, Applicant shall submit completed fingerprint forms and fingerprint fees within 45  
12 days of the effective date of the decision, unless previously submitted as part of the licensure  
13 application process.

14 **Criminal Court Orders:** If Applicant is under criminal court orders, including probation  
15 or parole, and the order is violated, this shall be deemed a violation of these probation conditions,  
16 and may result in the filing of an accusation and/or petition to revoke probation.

17 2. **Comply with the Board's Probation Program.** Applicant shall fully comply with  
18 the conditions of the Probation Program established by the Board and cooperate with  
19 representatives of the Board in its monitoring and investigation of the Applicant's compliance  
20 with the Board's Probation Program. Applicant shall inform the Board in writing within no more  
21 than 15 days of any address change and shall at all times maintain an active, current license status  
22 with the Board, including during any period of suspension.

23 Upon successful completion of probation, Applicant's license shall be fully restored.

24 3. **Report in Person.** Applicant, during the period of probation, shall appear in person  
25 at interviews/meetings as directed by the Board or its designated representatives.

26 4. **Residency, Practice, or Licensure Outside of State.** Periods of residency or  
27 practice as a registered nurse outside of California shall not apply toward a reduction of this  
28 probation time period. Applicant's probation is tolled, if and when he resides outside of

1 California. Applicant must provide written notice to the Board within 15 days of any change of  
2 residency or practice outside the state, and within 30 days prior to re-establishing residency or  
3 returning to practice in this state.

4 Applicant shall provide a list of all states and territories where he has ever been licensed as  
5 a registered nurse, vocational nurse, or practical nurse. Applicant shall further provide  
6 information regarding the status of each license and any changes in such license status during the  
7 term of probation. Applicant shall inform the Board if he applies for or obtains a new nursing  
8 license during the term of probation.

9 5. **Submit Written Reports.** Applicant, during the period of probation, shall submit or  
10 cause to be submitted such written reports/declarations and verification of actions under penalty  
11 of perjury, as required by the Board. These reports/declarations shall contain statements relative  
12 to Applicant's compliance with all the conditions of the Board's Probation Program. Applicant  
13 shall immediately execute all release of information forms as may be required by the Board or its  
14 representatives.

15 Applicant shall provide a copy of this Decision to the nursing regulatory agency in every  
16 state and territory in which he has a registered nurse license.

17 6. **Function as a Registered Nurse.** Applicant, during the period of probation, shall  
18 engage in the practice of registered nursing in California for a minimum of 24 hours per week for  
19 6 consecutive months or as determined by the Board.

20 For purposes of compliance with the section, "engage in the practice of registered nursing"  
21 may include, when approved by the Board, volunteer work as a registered nurse, or work in any  
22 non-direct patient care position that requires licensure as a registered nurse.

23 The Board may require that advanced practice nurses engage in advanced practice nursing  
24 for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

25 If Applicant has not complied with this condition during the probationary term, and  
26 Applicant has presented sufficient documentation of his good faith efforts to comply with this  
27 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an  
28 extension of Applicant's probation period up to one year without further hearing in order to

1 comply with this condition. During the one year extension, all original conditions of probation  
2 shall apply.

3       7.     **Employment Approval and Reporting Requirements.** Applicant shall obtain prior  
4 approval from the Board before commencing or continuing any employment, paid or voluntary,  
5 as a registered nurse. Applicant shall cause to be submitted to the Board all performance  
6 evaluations and other employment related reports as a registered nurse upon request of the Board.

7       Applicant shall provide a copy of this Decision to his employer and immediate supervisors  
8 prior to commencement of any nursing or other health care related employment.

9       In addition to the above, Applicant shall notify the Board in writing within seventy-two  
10 (72) hours after he obtains any nursing or other health care related employment. Applicant shall  
11 notify the Board in writing within seventy-two (72) hours after he is terminated or separated,  
12 regardless of cause, from any nursing, or other health care related employment with a full  
13 explanation of the circumstances surrounding the termination or separation.

14       8.     **Supervision.** Applicant shall obtain prior approval from the Board regarding  
15 Applicant's level of supervision and/or collaboration before commencing or continuing any  
16 employment as a registered nurse, or education and training that includes patient care.

17       Applicant shall practice only under the direct supervision of a registered nurse in good  
18 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods  
19 of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are  
20 approved.

21       Applicant's level of supervision and/or collaboration may include, but is not limited to the  
22 following:

23       (a)    Maximum - The individual providing supervision and/or collaboration is present in  
24 the patient care area or in any other work setting at all times.

25       (b)    Moderate - The individual providing supervision and/or collaboration is in the patient  
26 care unit or in any other work setting at least half the hours Applicant works.

27       (c)    Minimum - The individual providing supervision and/or collaboration has person-to-  
28 person communication with Applicant at least twice during each shift worked.

1 (d) Home Health Care - If Applicant is approved to work in the home health care setting,  
2 the individual providing supervision and/or collaboration shall have person-to-person  
3 communication with Applicant as required by the Board each work day. Applicant shall maintain  
4 telephone or other telecommunication contact with the individual providing supervision and/or  
5 collaboration as required by the Board during each work day. The individual providing  
6 supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to  
7 patients' homes visited by Applicant with or without Applicant present.

8 9. **Employment Limitations.** Applicant shall not work for a nurse's registry, in any  
9 private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse,  
10 or for an in-house nursing pool.

11 Applicant shall not work for a licensed home health agency as a visiting nurse unless the  
12 registered nursing supervision and other protections for home visits have been approved by the  
13 Board. Applicant shall not work in any other registered nursing occupation where home visits are  
14 required.

15 Applicant shall not work in any health care setting as a supervisor of registered nurses. The  
16 Board may additionally restrict Applicant from supervising licensed vocational nurses and/or  
17 unlicensed assistive personnel on a case-by-case basis.

18 Applicant shall not work as a faculty member in an approved school of nursing or as an  
19 instructor in a Board approved continuing education program.

20 Applicant shall work only on a regularly assigned, identified and predetermined worksite(s)  
21 and shall not work in a float capacity.

22 If Applicant is working or intends to work in excess of 40 hours per week, the Board may  
23 request documentation to determine whether there should be restrictions on the hours of work.

24 10. **Complete a Nursing Course(s).** Applicant, at his own expense, shall enroll and  
25 successfully complete a course(s) relevant to the practice of registered nursing no later than six  
26 months prior to the end of his probationary term.

27 Applicant shall obtain prior approval from the Board before enrolling in the course(s).  
28 Applicant shall submit to the Board the original transcripts or certificates of completion for the



1 above required course(s). The Board shall return the original documents to Applicant after  
2 photocopying them for its records.

3 11. **Violation of Probation.** If Applicant violates the conditions of his probation, the  
4 Board after giving Applicant notice and an opportunity to be heard, may set aside the stay order  
5 and impose the stayed discipline (revocation/suspension) of Applicant's license.

6 If during the period of probation, an accusation or petition to revoke probation has been  
7 filed against Applicant's license or the Attorney General's Office has been requested to prepare  
8 an accusation or petition to revoke probation against Applicant's license, the probationary period  
9 shall automatically be extended and shall not expire until the accusation or petition has been acted  
10 upon by the Board.

11 12. **License Surrender.** During Applicant's term of probation, if he ceases practicing  
12 due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation,  
13 Applicant may surrender his license to the Board. The Board reserves the right to evaluate  
14 Applicant's request and to exercise its discretion whether to grant the request, or to take any other  
15 action deemed appropriate and reasonable under the circumstances, without further hearing.  
16 Upon formal acceptance of the tendered license and wall certificate, Applicant will no longer be  
17 subject to the conditions of probation.

18 Surrender of Applicant's license shall be considered a disciplinary action and shall become  
19 a part of Applicant's license history with the Board. A registered nurse whose license has been  
20 surrendered may petition the Board for reinstatement no sooner than the following minimum  
21 periods from the effective date of the disciplinary decision:

22 (1) Two years for reinstatement of a license that was surrendered for any reason other  
23 than a mental or physical illness; or

24 (2) One year for a license surrendered for a mental or physical illness.

25 13. **Physical Examination.** Within 45 days of the effective date of this Decision,  
26 Applicant, at his expense, shall have a licensed physician, nurse practitioner, or physician  
27 assistant, who is approved by the Board before the assessment is performed, submit an  
28 assessment of the Applicant's physical condition and capability to perform the duties of a

1 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If  
2 medically determined, a recommended treatment program will be instituted and followed by the  
3 Applicant with the physician, nurse practitioner, or physician assistant providing written reports  
4 to the Board on forms provided by the Board.

5 If Applicant is determined to be unable to practice safely as a registered nurse, the licensed  
6 physician, nurse practitioner, or physician assistant making this determination shall immediately  
7 notify the Board and Applicant by telephone, and the Board shall request that the Attorney  
8 General's office prepare an accusation or petition to revoke probation. Applicant shall  
9 immediately cease practice and shall not resume practice until notified by the Board. During this  
10 period of suspension, Applicant shall not engage in any practice for which a license issued by the  
11 Board is required until the Board has notified Applicant that a medical determination permits  
12 Applicant to resume practice. This period of suspension will not apply to the reduction of this  
13 probationary time period.

14 If Applicant fails to have the above assessment submitted to the Board within the 45-day  
15 requirement, Applicant shall immediately cease practice and shall not resume practice until  
16 notified by the Board. This period of suspension will not apply to the reduction of this  
17 probationary time period. The Board may waive or postpone this suspension only if significant,  
18 documented evidence of mitigation is provided. Such evidence must establish good faith efforts  
19 by Applicant to obtain the assessment, and a specific date for compliance must be provided. Only  
20 one such waiver or extension may be permitted.

21 **14. Participate in Treatment/Rehabilitation Program for Chemical Dependence.**

22 Applicant, at his expense, shall successfully complete during the probationary period or shall  
23 have successfully completed prior to commencement of probation a Board-approved  
24 treatment/rehabilitation program of at least six months duration. As required, reports shall be  
25 submitted by the program on forms provided by the Board. If Applicant has not completed a  
26 Board-approved treatment/rehabilitation program prior to commencement of probation,  
27 Applicant, within 45 days from the effective date of the decision, shall be enrolled in a program.  
28 If a program is not successfully completed within the first nine months of probation, the Board

1 shall consider Applicant in violation of probation.

2 Based on Board recommendation, each week Applicant shall be required to attend at least  
3 one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics Anonymous,  
4 Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by the Board.  
5 If a nurse support group is not available, an additional 12-step meeting or equivalent shall be  
6 added. Applicant shall submit dated and signed documentation confirming such attendance to the  
7 Board during the entire period of probation. Applicant shall continue with the recovery plan  
8 recommended by the treatment/rehabilitation program or a licensed mental health examiner  
9 and/or other ongoing recovery groups.

10 **15. Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Applicant shall  
11 completely abstain from the possession, injection or consumption by any route of all controlled  
12 substances and all psychotropic (mood altering) drugs, including alcohol, except when the same  
13 are ordered by a health care professional legally authorized to do so as part of documented  
14 medical treatment. Applicant shall have sent to the Board, in writing and within fourteen (14)  
15 days, by the prescribing health professional, a report identifying the medication, dosage, the date  
16 the medication was prescribed, the Applicant's prognosis, the date the medication will no longer  
17 be required, and the effect on the recovery plan, if appropriate.

18 Applicant shall identify for the Board a single physician, nurse practitioner or physician  
19 assistant who shall be aware of Applicant's history of substance abuse and will coordinate and  
20 monitor any prescriptions for Applicant for dangerous drugs, controlled substances or mood-  
21 altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report  
22 to the Board on a quarterly basis Applicant's compliance with this condition. If any substances  
23 considered addictive have been prescribed, the report shall identify a program for the time limited  
24 use of any such substances.

25 The Board may require the single coordinating physician, nurse practitioner, or physician  
26 assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive  
27 medicine.

28 **16. Submit to Tests and Samples.** Applicant, at his expense, shall participate in a

1 random, biological fluid testing or a drug screening program which the Board approves. The  
2 length of time and frequency will be subject to approval by the Board. Applicant is responsible  
3 for keeping the Board informed of Applicant's current telephone number at all times. Applicant  
4 shall also ensure that messages may be left at the telephone number when he is not available and  
5 ensure that reports are submitted directly by the testing agency to the Board, as directed. Any  
6 confirmed positive finding shall be reported immediately to the Board by the program and  
7 Applicant shall be considered in violation of probation.

8 In addition, Applicant, at any time during the period of probation, shall fully cooperate with  
9 the Board or any of its representatives, and shall, when requested, submit to such tests and  
10 samples as the Board or its representatives may require for the detection of alcohol, narcotics,  
11 hypnotics, dangerous drugs, or other controlled substances.

12 If Applicant has a positive drug screen for any substance not legally authorized and not  
13 reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board  
14 files a petition to revoke probation or an accusation, the Board may suspend Applicant from  
15 practice pending the final decision on the petition to revoke probation or the accusation. This  
16 period of suspension will not apply to the reduction of this probationary time period.

17 If Applicant fails to participate in a random, biological fluid testing or drug screening  
18 program within the specified time frame, Applicant shall immediately cease practice and shall not  
19 resume practice until notified by the Board. After taking into account documented evidence of  
20 mitigation, if the Board files a petition to revoke probation or an accusation, the Board may  
21 suspend Applicant from practice pending the final decision on the petition to revoke probation or  
22 the accusation. This period of suspension will not apply to the reduction of this probationary time  
23 period.

24 **17. Mental Health Examination.** Applicant shall, within 45 days of the effective date of  
25 this Decision, have a mental health examination including psychological testing as appropriate to  
26 determine his capability to perform the duties of a registered nurse. The examination will be  
27 performed by a psychiatrist, psychologist or other licensed mental health practitioner approved by  
28 the Board. The examining mental health practitioner will submit a written report of that

1 assessment and recommendations to the Board. All costs are the responsibility of Applicant.  
2 Recommendations for treatment, therapy or counseling made as a result of the mental health  
3 examination will be instituted and followed by Applicant.

4 If Applicant is determined to be unable to practice safely as a registered nurse, the licensed  
5 mental health care practitioner making this determination shall immediately notify the Board and  
6 Applicant by telephone, and the Board shall request that the Attorney General's office prepare an  
7 accusation or petition to revoke probation. Applicant shall immediately cease practice and may  
8 not resume practice until notified by the Board. During this period of suspension, Applicant  
9 shall not engage in any practice for which a license issued by the Board is required, until the  
10 Board has notified Applicant that a mental health determination permits Applicant to resume  
11 practice. This period of suspension will not apply to the reduction of this probationary time  
12 period.

13 If Applicant fails to have the above assessment submitted to the Board within the 45-day  
14 requirement, Applicant shall immediately cease practice and shall not resume practice until  
15 notified by the Board. This period of suspension will not apply to the reduction of this  
16 probationary time period. The Board may waive or postpone this suspension only if significant,  
17 documented evidence of mitigation is provided. Such evidence must establish good faith efforts  
18 by Applicant to obtain the assessment, and a specific date for compliance must be provided. Only  
19 one such waiver or extension may be permitted.

20 18. **Therapy or Counseling Program.** Applicant, at his expense, shall participate in an  
21 on-going counseling program until such time as the Board releases him from this requirement and  
22 only upon the recommendation of the counselor. Written progress reports from the counselor will  
23 be required at various intervals.

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## **Exhibit A**

**Statement of Issues No. 2012-453**

1 KAMALA D. HARRIS  
2 Attorney General of California  
3 FRANK H. PACOE  
4 Supervising Deputy Attorney General  
5 JUDITH J. LOACH  
6 Deputy Attorney General  
7 State Bar No. 162030  
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10 Telephone: (415) 703-5604  
11 Facsimile: (415) 703-5480  
12 E-mail: Judith.Loach@doj.ca.gov  
13 Attorneys for Complainant

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13 BRANDON JARROD MURPHY  
14 828 Manzanita Avenue  
15 Eureka, CA 95503

STATEMENT OF ISSUES

Applicant.

17 Complainant alleges:

18 PARTIES

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Statement of Issues solely  
20 in her official capacity as the Interim Executive Officer of the Board of Registered Nursing,  
21 Department of Consumer Affairs.

22 2. On or about June 3, 2011, the Board of Registered Nursing, Department of Consumer  
23 Affairs received an application for a Registered Nurse License from Brandon Jarrod Murphy  
24 ("Applicant"). On or about June 1, 2011, Brandon Jarrod Murphy certified under penalty of  
25 perjury to the truthfulness of all statements, answers, and representations in the application. The  
26 Board denied the application on August 22, 2011.

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JURISDICTION

3. This Statement of Issues is brought before the Board of Registered Nursing ("Board"), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code ("Code") unless otherwise indicated.

4. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

"(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

5. Section 2762 of the Code states:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

"(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

"(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.

6. Section 480 of the Code states:

"(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

"(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

"(3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

"(B) The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made.

"(b) Notwithstanding any other provision of this code, no person shall be denied a license solely on the basis that he or she has been convicted of a felony if he or she has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate the rehabilitation of a person when considering the denial of a license under subdivision (a) of Section 482.

FIRST CAUSE FOR DENIAL OF LICENSE APPLICATION

(Criminal Convictions)

7. Applicant's registered nurse license application is subject to denial under Code section 2761, subdivisions (a) and (f), section 2762, subdivision (c), and section 480, subdivision (a)(1), based on the following:

1 a. On or about January 22, 2002, Applicant pled guilty to a violation of Penal Code  
2 section 415 [disturbing the peace], as a misdemeanor in the case of *People of the State of*  
3 *California v. Brandon Jarrod Murphy*, Humboldt County Superior Court, Case No. CR015302.

4 Applicant was ordered to attend a one (1) year domestic violence program, fined \$370.00, and  
5 sentenced to two (2) days in the county jail, with credit for time served.

6 b. On or about September 14, 2009, Applicant pled guilty to a violation of Vehicle Code  
7 section 23103 [reckless driving], as a misdemeanor in the case of *People of the State of California*  
8 *v. Brandon Jarrod Murphy*, Humboldt County Superior Court, Case No. CR 093638S.

9 Applicant was placed on conditional release for three (3) years, ordered to attend the Humboldt  
10 County Alcohol Program, fined \$1,175.40, and ordered to not drive with a blood alcohol of any  
11 amount and submit to chemical testing if stopped or arrested for driving while under the influence  
12 of alcohol. Said conditional release was revoked on or about April 6, 2010, as a result of  
13 Applicant's arrest for driving while under the influence of alcohol on February 20, 2010, as set  
14 forth below.

15 The circumstances in support of this guilty plea are as follows: On or about April 17,  
16 2009, Applicant was observed driving the wrong way on a one way street. He was stopped by a  
17 California Highway Patrol Officer, who noted that the Applicant had a strong odor of alcohol on  
18 his breath. Applicant refused field sobriety testing, refused to submit a breath sample for a  
19 Preliminary Alcohol Screening test, and refused all chemical testing.

20 c. On or about June 2, 2010, Applicant pled guilty to violation of Vehicle Code section  
21 23152(a) [driving while under the influence of alcohol and/or drugs], a misdemeanor and to an  
22 enhanced penalty for a violation of Vehicle Code section 23578 [driving with a blood alcohol  
23 level at .15% or more] in the case of *People of the State of California v. Brandon Jarrod Murphy*,  
24 Humboldt County Superior Court, Case No. CR1001967. Applicant's blood alcohol level at the  
25 time of his arrest was .25%. Applicant was sentenced to twenty (20) days in the county jail,  
26 placed on three (3) years of probation based on conditional release, ordered to attend and  
27 complete the Department of Motor Vehicles Multiple Offender Alcohol Program, and fined  
28 \$ 3135.00.

1 The circumstances in support of this guilty plea are as follows: On or about February  
2 20, 2010, Applicant was observed to be driving his vehicle in an unsafe manner, by swerving into  
3 the oncoming lane. He was stopped by a California Highway Patrol Officer, who noted that the  
4 Applicant had a strong odor of alcohol on his breath. Applicant refused field sobriety testing and  
5 refused to submit a breath sample for a Preliminary Alcohol Screening test. Applicant's blood  
6 alcohol level was reported to be .25%.

7 SECOND CAUSE FOR DENIAL OF LICENSE APPLICATION

8 (Unprofessional Conduct - Driving While Under the Influence of Alcohol With Blood  
9 Alcohol Level of .25%)

10 8. Applicant's registered nurse license application is subject to denial under Code  
11 section 2761, subdivisions (a) and (f), section 2762, subdivisions (b) and (c), and section 480,  
12 subdivision (a)(3)(A), in that his aforementioned conviction for driving with a blood alcohol level  
13 of at least .25% as set forth above in paragraph 7, subparagraph (c), constituted unprofessional  
14 conduct which would be grounds for discipline if the Applicant had been licensed as a registered  
15 nurse.

16 PRAAYER

17 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
18 and that following the hearing, the Board of Registered Nursing issue a decision:

- 19 1. Denying the application of Brandon Jarrod Murphy for a Registered Nurse License;  
20 2. Taking such other and further action as deemed necessary and proper.

21 DATED: February 21, 2012

22 *Louise R. Bailey*  
LOUISE R. BAILEY, M.ED., RN  
Interim Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

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